

REMARKS

Applicants have filed herewith a verified English translation of the foreign priority document, JP 2002-365280, having a filing date of December 17, 2002. The foreign priority document supports the invention as presently claimed.

Status of the Claims

Upon entry of the present amendment, claims 1-3 and 11 will be pending in the present application. Claims 4-10 have been cancelled herein. Claims 1-3 and 11 have been amended. Support for the recitations in claim 1 can be found in claim 6 as originally filed. Claims 2-3 and 11 have been amended in view of the amendment to claim 1. No new matter has been added.

Applicants submit that the present Amendment is merely formal in nature, is in accordance with the Examiner's instructions, reduces the number of issues under consideration, and places the case in condition for allowance. Entry of the present amendment is proper to place the claims in better form for appeal.

Applicants respectfully request the Examiner to reconsider and withdraw the rejections in view of the following remarks.

Examiner's Interview

Applicants would like to thank the Examiner for his time during the interview on December 11, 2008. Applicants appreciate the courtesies extended to them in this application. During the interview with the Examiner, the differences between the present invention and the cited prior art were discussed. Specifically, the cited reference does not disclose a "phosphorescent material." The Examiner acknowledged that he could not immediately find any disclosure in the cited reference and recommended repeating the argument for further consideration. Although an agreement could not be reached during the interview, Applicants believe that the claims are now in condition for allowance. Should the Examiner believe that there remains any outstanding issues, Applicants respectfully request that the Examiner contact Applicants' Representative so as to expedite resolution of these outstanding issues, via an Examiner's Amendment or the like.

Issues under 35 U.S.C. § 102(a)

The Examiner has rejected claims 1-6 and 8-11 under 35 U.S.C. § 102(a) as being anticipated by Igarashi et al. '634 (US 6,358,634).

Applicants respectfully traverse and assert that Igarashi et al. '634 do not disclose each and every element of independent claim 1. Therefore, Igarashi et al. '634 do not anticipate or render obvious claim 1.

The characteristic of the claimed invention is that the compound of the formula (I) and a phosphorescent material are contained in the luminescent layer.

In stark contrast, Igarashi et al. '634 do not mention a phosphorescence emission system at all.

In the outstanding Office Action, the Examiner focuses solely on the compounds represented by formulas (I)-(IV). The Examiner does not appear to address the argument that Igarashi et al. '634 do not disclose a phosphorescent material in the luminescent layer. During the interview, the Examiner indicated that he would provide further consideration to this argument.

Furthermore, Applicants respectfully submit that compounds with a good performance in a fluorescent emission system are not always compounds with a good performance in a phosphorescence emission system.

In contrast, in the present invention, not only were materials with a higher performance in a phosphorescence emission system found but also the external quantum efficiency in the present invention (14.9% to 23.9%) was remarkably improved from the external quantum efficiency disclosed in Igarashi et al. '634 (1.2%). The present invention also possesses an unexpected effect (driving durability) not disclosed in Igarashi et al. '634.

Therefore, the claimed invention is also not obvious over Igarashi et al. '634.

Accordingly, the present invention is not anticipated by Igarashi et al. '634 since the reference does not teach or provide for each of the limitations recited in the pending claims.

For completeness, Applicants also respectfully submit that Igarashi et al. '634 do not render the present invention obvious because the reference provides no disclosure, reason, or rationale that would allow one of ordinary skill in the art to arrive at the present invention as claimed.

Obviousness-type Double Patenting

The Examiner has rejected claims 1-6 under the doctrine of obviousness-type double patenting over the following claims:

- 1) Claims 11-20 of U.S. Patent No. 6,358,634;
- 2) Claims 1-20 of U.S. Patent No. 7,179,544; and
- 3) Claims 1-9 of U.S. Patent No. 7,291,405.

Regarding the first obviousness-type double patenting rejection, Applicants respectfully submit that the rejection has been overcome as discussed above. More specifically, Igarashi et al. '634 do not disclose a phosphorescent material in the luminescent layer.

Reconsideration and withdrawal of the second and third rejections are requested based on the filing herewith of an appropriate Terminal Disclaimer, which disclaims the terminal portion of any patent granted in the matter of the instant application which would extend beyond the expiration date of U.S. Patent No. 7,179,544 or 7,291,405. Based upon the submission of the accompanying Terminal Disclaimer, withdrawal of the outstanding rejection is respectfully requested.

Claim Objections

The Examiner has objected to claims 1-5 and 8-10 as containing non-elected subject matter. Applicants have amended the claims to overcome this issue. As such, Applicants respectfully request that the objection be removed.

As the above amendments and remarks address and overcome the rejections, withdrawal thereof and allowance of the claims are respectfully requested.

CONCLUSION

A full and complete response has been made to all issues as cited in the Office Action. Applicants have taken substantial steps in efforts to advance prosecution of the present application. Thus, Applicants respectfully request that a timely Notice of Allowance issue for the present case clearly indicating that each of claims 1-3 and 11 are allowed and patentable under the provisions of title 35 of the United States Code.


Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Chad M. Rink, Reg. No. 58,258, at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37.C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: January 9, 2009

Respectfully submitted,

By

 #43575
MaryAnne Armstrong, Ph.D.

Registration No.: 40,069 for

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road

Suite 100 East

P.O. Box 747

Falls Church, Virginia 22040-0747

(703) 205-8000

Attorney for Applicants

Attachment: Verified English translation of JP 2002-365280
Terminal Disclaimer